Stock Commission Co. v. *Chicago Live Stock Exchange,* 143 Ill. 210; *Starret* v. *Rockland Insurance Co.,* 65 Me. 374, and also the acceptance by the stockholder is necessary, *Ellis* v. *Marshall,* 2 Mass. 269. The acceptance of the corporation may be implied in the principal case from the facts that the act of incorporation was directed to the stockholders in the joint stock company and the issuance of trust certificates after the corporation came into existance, such certificates being acceptable in payment of lots sold. The acceptance of the stockholders may be implied from the facts that the act was directed to them and was for their benefit and they never repudiated it but now seek to enforce the relationship. There being an executed contract the stockholders of the joint stock company became stockholders in the corporation and the corporation could not expel them unless the power had been expressly conferred in their charter, which was not done. *In Re Long Island Ry. Co.,* 19 Wend. (N. Y.) 37, 32 Am. Dec. 429. The complainants being valid stockholders were entitled to dividends and the corporation could not make any discrimination or otherwise deprive them of their rights. *Jones* v. *Terre Haute & Richmond Ry. Co.,* 57 N. Y. 196.

COVENANTS—BUILDING RESTRICTIONS.—A property owner sued on a building covenant forming part of a general scheme, after having failed to exercise his right for a considerable time, during which time many buildings had been built contrary to the provisions of the covenant. *Held,* he could not enforce the covenant in equity, his remedy being limited to an action at law. *Ocean City Land Co.* v. *Weber* (N. J. 1914), 91 Atl. 600.

The principal case illustrates the reluctance of courts of equity to enforce a building restriction where the complainant's failure to exercise his right has led to such a violation of the covenant that it may be appropriately said to be abandoned. The restriction will be enforced where it would be equitable in the particular case. This is the weight of authority. *Trout* v. *Lucas,* 54 N. J. Eq. 361, 35 Atl. 153; *McCue* v. *Raston,* 9 Grat. (Va.) 430; *Gaxter* v. *German Roman Catholic Church, etc.,* 147 Pa. 313, 23 Atl. 452; *Flint* v. *Charman,* 6 N. Y. App. Div. 121; *Roper* v. *Williams,* 1 Turn. & R. (12 Eng. Ch.) 18; *Peek* v. *Mathews* (1867), L. R. 3 Eq. 515. The covenantee's remedy in such cases must be sought in a court of law. *Ocean City Ass'n.* v. *Headley,* 62 N. J. Eq. (17 Dick.) 322, 334, 50 Atl. 78.

CRIMINAL LAW—"INVOLUNTARY" CONFESSION AS EVIDENCE.—Defendant, convicted of murder, assigned as error the admission in evidence of a confession made by him to a newspaper man, who paid him three visits while he was in jail and talked to him about religious matters, told him that his only hope was salvation, and said to him, "I am a Spiritualist, and I can look down in your black heart and see this diabolical crime you committed at midnight the other night." *Held,* that the confession was not voluntary and should have been excluded, (SMITH, C. J., dissenting.) *Johnson* v. *State* (Miss. 1914), 65 So. 218.

The court, in the majority opinion, discussing the meaning of the word "spiritual" as used "to define hopes and fears which may be held out to

one charged with a crime when a confession is sought," concludes that "the influence flowing from Mr. Fitzgerald's words cannot be relieved of objection by the claim that they only appealed to the spiritual hopes or fears of appellant." It is said, further, "A man ill and nervous could be thrown into a serious physical fear and constraint, even though from superstition, which is a fear of that which is unknown or mysterious, by the intense statement of one who claimed he was a spiritualist—that is, one who holds communications with departed and disembodied spirits—and said that he could see into his black heart and detect guilt." An examination of the language used by the newspaper man to defendant, as a whole, would perhaps lead one to the conclusion reached in the dissenting opinion, that whatever influence that language had upon defendant was of a moral or religious nature, holding out hopes of spiritual salvation—a kind of influence which has never been held to make the confession obtained thereby incompetent. 1 WIGMORE, EVIDENCE, § 840; *R.* v. *Gilham,* 1 Mood. C. C. 186; *R.* v. *Sleeman,* 6 Cox C. C. 245; *Com.* v. *Drake,* 15 Mass. 161; *Mathews* v. *State,* 9 Lea (Tenn.) 128; *Frank* v. *State,* 39 Miss. 711. But even if the words of the newspaper man had the effect of imposing on the defendant's superstitions to the extent thought possible by the court in the majority opinion; even if we assume that the defendant was induced thereby to believe that the other could look down into his heart and perceive his guilt, it is difficult to see how this fact renders the confession invalid. If the "fear" which is supposed to arise in the heart of the defendant from such a belief be the fear which may ordinarily be supposed to arise in the heart of anyone who knows himself to be suspected of a crime, or is directly charged therewith, such fear has been held, repeatedly, to be insufficient to render the confession inadmissible. *Hardy* v. *U. S.,* 3 App. Cas. (D. C.) 48; *State* v. *Johnny,* 29 Nev. 203; *Com.* v. *Smith,* 119 Mass. 311; *Allen* v. *State,* 12 Tex. App. 190; *Honeycutt* v. *State,* 3 Baxt. (Tenn.) 377; *People* v. *Wentz,* 37 N. Y. 304. If, on the other hand, the fear inspired in defendant was, as the court seems to apprehend, "a serious physical fear and constraint, even though from superstition, which is a fear of that which is unknown or mysterious," it is again difficult to see that the natural or possible effect of such fear would be to induce an invalid or false confession. An examination of the cases wherein it is held that a confession induced by physical fear is incompetent will show that the true basis of inquiry is, whether the fear inspired or the danger apprehended may be overcome by a confession, true or false, as where the fear is occasioned by threats of, or actual, physical violence, and the confession may possibly have been made to avoid bodily punishment. *Whitley* v. *State,* 78 Miss. 255; *State* v. *Moore,* 160 Mo. 443; *State* v. *Young,* 52 La. Ann. 478; *Edmonson* v. *State,* 72 Ark. 585; *Miller* v. *People,* 39 Ill. 457; *Jackson* v. *State,* 50 Tex. Cr. R. 302; *People* v. *Swetland,* 77 Mich. 53. This cannot be said of the present case, for the defendant here cannot possibly have conceived that a confession to the newspaper man would have relieved him of any danger which threatened him and which he feared by reason of the statements of the latter, unless the defendant was caused to believe himself threatened by some malignant and powerful spirit to be appeased only by a

confession, true or false—a theory which could scarcely merit serious consideration. The decision of the majority of the court, in so far as it is based upon this portion of the evidence, would seem therefore to stand on a somewhat infirm foundation.

DEEDS—SEPARATE WRITINGS CONSTRUED TOGETHER.—Plaintiff sued for the recovery of land and offered in evidence a deed as part of his claim of title. In connection with this deed, and as part of it, plaintiff offered also a separate piece of paper, containing matter of description, continuous with and supplemental to the description of property embodied in the deed proper, and which though not signed, nor referred to in the deed proper, was delivered to the grantee along with the deed and as part of it. *Held,* it was properly received in evidence as part of the deed. *Kyle* v. *Jordan* (Ala. 1914), 65 So. 522.

In view of the law in regard to evidence aliunde the instrument, either will or deed, this decision seems to take a dangerous trend. It is well settled that extrinsic documents *referred to* in deeds may be resorted to for identification of the property or estate intended to be conveyed. *Heffelman* v. *Otsego Water-Power Co.,* 78 Mich. 121, 44 N. W. 1151; *Allen* v. *De Groodt,* 105 Mo. 442, 16 S. W. 494, 1049; *Hoffman* v. *City of Port Huron,* 102 Mich. 417, 60 N. W. 831; *Ford* v. *Belmont,* 30 N. Y. Super. Ct. (7 Rob.) 97; *Watson* v. *Boylston,* 5 Mass. 411. In these cases the emphasis is placed on the reference in one instrument to the other. The court itself makes mention of the analogy in the law of wills that an extrinsic document cannot be treated as a part of a will unless it is distinctly referred to, accurately described, and in actual existence. *Bryan's Appeal,* 77 Conn. 240, 58 Atl. 748, 68 L. R. A. 353, and note, 107 Am. St. Rep. 34, 1 Ann. Cas. 393; *Bryan* v. *Bigelow,* 77 Conn. 604, 60 Atl. 266, 107 Am. St. Rep. 64, and note; *Estate of Young,* 123 Cal. 337, 342, 55 Pac. 1011; *Fickle* v. *Snepp,* 97 Ind. 289, 49 Am. Rep. 449; *Tonnele* v. *Hall,* 4 N. Y. 140; *Baker's Appeal,* 107 Pa. St. 381, 52 Am. Rep. 478. These analogies are refuted by the court, however, and the evidence admitted on the ground that it was continuous, coherent, and consistent with that part of the deed which it purports to supplement. It would seem that to allow the introduction of such evidence without any reference to it in the body of the deed, is to destroy the safeguards of the parole evidence rule.

DIVORCE—WIFE'S REFUSAL TO FOLLOW HUSBAND NOT DESERTION.—Plaintiff and defendant, husband and wife, occupied one-half of a double house owned by the wife's mother who lived in the other half. Difficulties soon arose between defendant and his mother-in-law, and when the situation became unbearable, he moved away to another part of the city. The plaintiff refused to follow him. There was evidence to show that the wife was in poor health, and that her mother aided her in her household duties, and that she had a more comfortable home where she was, than her husband could provide. *Held,* that the wife's refusal to follow her husband did not constitute desertion. *Copping* v. *Termini,* (La. 1914) 65 So. 132.